REMARKS

This paper is responsive to the Non-Final Office action dated September 21, 2006. Claims 1-9 and 11-23 are pending. Of those, claims 1, 11-19 and 23 were rejected. Claim 10 has been cancelled and remaining claims are presently withdrawn in view of a species election. Claims 1 and 18 are generic. Claims 1, 5, 18 and 20-22 are amended to correct minor informalities.

Claim Rejections — 35 U.S.C. § 103

Claims 1, 11-19 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ghoshal et al. (U.S. 6,658,861 B1, hereinafter "Ghoshal '861"). Applicants respectfully traverse, noting that Ghoshal '861 does not constitute a reference under 35 U.S.C. § 102(e) (or any other provision of the statute) and, in any case, cannot form the basis of an obviousness rejection based on the exclusion of 35 U.S.C. § 103(c).

In particular, Ghoshal '861 granted less than one year before the filing date of the present application and therefore is not prior art under § 102(b). Furthermore, Ghoshal '861 did not grant on an application for patent "by another" as required under § 102(e). Both the present application and Ghoshal '861 name the same inventorship entity, namely Ghoshal and Miner. Accordingly, Ghoshal '861 does not constitute prior art under § 102(e). Finally, even if Ghoshal '861 could be considered a reference under § 102(e), section 103(c) specifically precludes a finding of obviousness where, as here,

> *the invention(s) claimed in the present application were, at the time made, owned by the same person or subject to an obligation of assignment to the same person.*

The preceding statement by the undersigned attorney of record is sufficient (*see* MPEP 706.02(l)(2)(II)) to establish common ownership.

Accordingly, for each of the forgoing reasons, all rejections under 35 U.S.C. § 103 should be withdrawn. Rejected claims 1, 11-19 and 23 (as well as those dependent therefrom) are all allowable over the art of record.

Double Patenting Rejection

Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of Ghoshal '861. Claims 11 and 12 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of Ghoshal '861 in view of Sekhon et al. (U.S. 4,047,198). Claims 18 and 19 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 14 of Ghoshal '861 in view of Sekhon et al.

Insofar as some of the present double patenting rejections purport to rely on a combination of references, Applicants respectfully note that such rejections are facially improper. A rejection for obviousness-type double patenting must be based on conflict between claims. Neither the disclosure of the patent in which conflicting claims allegedly appear, nor that of an entirely separate reference (such as Sekhon) may be relied upon to support a double patenting rejection. For this reason alone, double patenting rejections of claims 11, 12, 18 and 19 must be withdrawn.

Notwithstanding the foregoing, the Office has rejected claim 1 for obviousness-type double patenting over an allegedly conflicting claim of Ghoshal '861. Accordingly, Applicant files herewith a terminal disclaimer obviating the double patenting rejection. Claims 1, 11, 12, 18 and 19 are all allowable.

Allowable Generic Claims

Claims 1-9 and 11-23 all remain pending. Claims 11-19 and 23 are all allowable over the art of record, as are generic claims 1 and 18. Accordingly, claims 1-9, 11-19 and 23 are all allowable and notice to that effect is respectfully requested. Nonetheless, if any issues remain that could be more efficiently handled by telephone, the Examiner is requested to call the undersigned at the number listed below.

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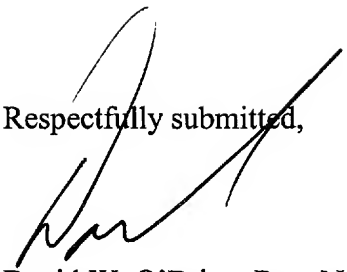
Respectfully submitted,



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